

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish  
Policies and Cost Recovery Mechanisms for  
Generation Procurement and Renewable  
Resource Development.

Rulemaking 01-10-024

**ASSIGNED COMMISSIONER'S RULING REGARDING FURTHER  
PROCEEDINGS ON SAN DIEGO GAS & ELECTRIC COMPANY'S GRID  
RELIABILITY CAPACITY REQUEST FOR PROPOSALS**

In response to a motion filed by San Diego Gas & Electric Company (SDG&E) on July 3, 2003, this ruling modifies the May 30 and June 18, 2003 rulings of Administrative Law Judge (ALJ) Walwyn by canceling the dates for the submission of certain testimony and bifurcating all issues relating to the motion of Calpine and responses to SDG&E's Grid Reliability Capacity Request for Proposals (RFP) dated May 16, 2003 from the upcoming hearings that are due to commence in this proceeding on July 21, 2003.

**1. Introduction**

ALJ Walwyn's June 18 ruling modified certain provisions of her May 30, 2003 ruling relating to an expedited procedural process and the submission of testimony concerning Calpine Corporation's (Calpine's) request for expedited Commission guidance and authority to SDG&E in connection with a power purchase agreement (PPA) for Calpine's Otay Mesa Generating Project (Otay Mesa). The June 18 ruling modified the dates and parties eligible to serve testimony in order to allow SDG&E and Calpine to explore whether there are any alternatives to litigation of this matter

in this proceeding. The June 18 ruling acknowledged the potential for an expedited procedural process for litigating the Calpine motion in the hearings beginning July 21, 2003.

ALJ Walwyn's May 30 ruling was, in part, a response to the May 9 motion of Calpine, which requested the Commission to provide expedited guidance and authority to SDG&E to enable SDG&E to immediately address its resource needs for 2005, including expediting discussions with Calpine to secure an executed and approved long-term, cost-effective PPA for Otay Mesa. The May 30 ruling found that Calpine's motion, and various comments filed in support of that motion, provided sufficient grounds for the Commission to expedite consideration of Calpine's request in the upcoming hearings in this matter if the record evidence established the claims made by Calpine. At that time, it was expected that SDG&E's procurement plan would be considered at the beginning of the hearings and an opportunity for oral argument on the need for expedited consideration of Otay Mesa would be afforded all parties directly following the testimony.

However, the motion filed by SDG&E on July 3, 2003 calls into question both the reasonableness and the practicality of holding evidentiary hearings on Calpine's motion, as well as on other issues relating to the responses to SDG&E's RFP, as part of the hearings that are currently scheduled to commence in this proceeding on July 21, 2003. SDG&E's motion also specifies those other issues relating to other aspects of SDG&E's procurement activities (including SDG&E's long-range resource plan) that can move forward on the expedited time frame of the currently scheduled hearings, and sets forth a proposed schedule for addressing the issues relating to the responses to its RFP and to Calpine's motion.

## **2. SDG&E's RFP**

SDG&E issued its Grid Reliability Capacity RFP on May 16, 2003. Proposals in response to this RFP were initially due to be submitted by July 14, 2003. However, as a result of the pressure brought to bear by the May 30 ruling, SDG&E subsequently, on June 2, 2003, informed interested parties that the deadline for submittal of proposals in response to this RFP would be accelerated to June 27, 2003 (with the credit application remaining due on the original date of July 14).

In its July 3, motion, SDG&E informed us that it received 17 separate potentially conforming bids in response to its RFP, and that a careful and reasoned internal analysis of these proposals by SDG&E staff would require significant time.<sup>1</sup> Thus, it is not reasonable to expect that a prudent and thorough financial or technical review of the responses to SDG&E's RFP can be completed within the time frame of the hearings that are currently scheduled to commence in this proceeding on July 21, 2003. It is also not reasonable to require Calpine and SDG&E to litigate the substance of Calpine's motion while SDG&E is actively reviewing proposals, including, presumably, one from Calpine regarding Otay Mesa, which SDG&E may well find to be the basis for a cost-effective power purchase agreement (PPA) that is reasonable, prudent and in the best interest of SDG&E's ratepayers.

It is noteworthy that SDG&E's July 3 motion states that SDG&E's filed testimony on the procurement issues previously identified for hearing can proceed to hearing on July 21. Indeed, the normal, logical progression of regulatory review

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<sup>1</sup> In its motion, SDG&E states that the schedule for analyzing the RFP bids includes final screening and SDG&E PRG review occurring between July 20 and August 25, 2003; submittal of the outcome of the RFP to the Commission on September 7, 2003; and final contract negotiations occurring between September 7 and October 31, 2003.

would be for the Commission to consider a long-range resource plan, by its nature a “big picture” outline, before the Commission took up specific proposals for dedicated firm capacity for the mid-term, 2-to-10-year future (such as the responses to SDG&E’s RFP) that presumably would fit into that “big picture.” Although the issues relating to Calpine’s motion and the responses to SDG&E’s RFP will not be addressed in the upcoming hearings starting on July 21, they will be subject to public review and scrutiny in accordance with a schedule to be determined at, or as soon as possible after, the July 16 Prehearing Conference.

It therefore makes sense to cancel the July 11, 2003 date for the submission of testimony by Calpine and SDG&E established by the June 18 ruling and to bifurcate the issues relating to Calpine’s motion and the responses to SDG&E’s RFP from the hearings that are scheduled to commence on July 21, 2003.

As noted above, SDG&E’s July 3 motion sets forth a proposed schedule for addressing the issues relating to the responses to its RFP and to Calpine’s motion. Calpine and the other interested parties should be prepared to address this proposed schedule at the Prehearing Conference that is currently scheduled to take place in this matter on July 16, 2003. These parties are encouraged to provide written comments on SDG&E’s proposed schedule by July 14, 2003, with copies to myself, ALJ Walwyn and the service list. However, parties that do not provide such comments in writing will still be allowed to address this proposed schedule orally at the July 16 Prehearing Conference.

### **3. The California Energy Action Plan**

Although, for the reasons stated above, SDG&E and Calpine should be excused from the requirement to submit testimony on the substance of Calpine’s motion and the viable options to the Otay Mesa PPA by July 11, SDG&E and Calpine are encouraged to continue to explore whether there are any alternatives to

litigation of Calpine's motion. In this regard, SDG&E, Calpine and the other interested parties should take account of the following important policy considerations.

On May 8, 2003, the Commission approved a first-of-its-kind Energy Action Plan for California that was proposed by a subcommittee of the Commission, the Consumer Power and Conservation Financing Authority (CPA), and the Energy Resources Conservation and Development Commission (CEC). This plan establishes shared goals and proposes specific actions to ensure that adequate, reliable, and reasonably priced electrical power and natural gas supplies are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers.

We want to assure that the policy principles espoused by the Commission in its adoption of the Energy Action Plan are actively taken into account by SDG&E in its review of the various responses to its RFP, in any resource procurement proposals that SDG&E may bring before the Commission, as well as in any settlement of the disputed issues addressed in ALJ Walwyn's May 30 ruling that SDG&E and Calpine may submit for the Commission's consideration.

The goal of the Energy Action Plan is to ensure that adequate, reliable, and reasonably-priced electrical power and natural gas supplies, including prudent reserves, are achieved and provided through policies, strategies, and actions that are cost-effective and environmentally sound for California's consumers and taxpayers. Consistent with this goal, in moving forward with its procurement activities resulting from the RFP process, SDG&E should focus on the following considerations:

(i.) California needs to ensure that its electrical generation system, including reserves, is sufficient to meet all current and future needs, and that this reliable and cost-effective electricity comes without over-dependence on a single

fuel source and at reasonable prices. Toward this end, the state must, among other things, add new generation resources to meet anticipated demand growth, modernize old, inefficient and polluting plants and achieve and maintain appropriate reserve levels.

(ii.) Given the Commission's rejection of the Valley/Rainbow transmission line, SDG&E will need to add new generation resources to meet anticipated load and to maintain adequate reserve levels.

(iii.) The San Diego area has aging inefficient plants located on the California coastline that should be replaced with more efficient, low emission, environmentally clean plants.

(iv.) Moreover, due to the fact that a substantial portion of its in-basin generation comes from these aging inefficient plants, SDG&E's RMR costs are very high.

In addition to the foregoing considerations that are directly reflective of the goal of the Energy Action Plan, the Commission has previously stated its intent to encourage utility-owned generation as a resource option. In D.02-10-062 the Commission stated: "In their resource planning, the utilities should consider both utility owned/retained and merchant generation sources. ...[F]or the longer-term utilities should assess costs and benefits of various contracting and ownership strategies."

In light of these principles, SDG&E should be prepared to seriously consider proposals in response to its RFP, or variants thereof, that include the eventual ownership by SDG&E of highly efficient, economical and environmentally superior power plants in San Diego that will provide a significant percentage of SDG&E's total electric capacity resource requirement, including peak load plus reserve margin.

In this regard, we note that the SDG&E RFP directed bidders to propose capacity resources on the basis of three distinct alternatives: (1) a demand reduction product; (2) up to a 10-year PPA for capacity, associated energy, and ancillary services from a renewable or fossil resource; and (3) turnkey acquisition agreement for a natural gas-fired generation facility. It may be that as SDG&E reviews the conforming proposals that it has received, it identifies some hybrid of, for example, alternatives 2 and 3 that provides even greater system reliability and ratepayer benefits than does any of the specific proposals responding to the RFP that fall neatly into one or another of these two alternatives. SDG&E is encouraged to pursue such beneficial variants of conforming proposals that it received that will provide SDG&E's ratepayers with superior reliability, economic and environmental benefits, but that also will conform to the principles of the state's Energy Action Plan and to the other important Commission policies and goals enunciated above.

For the foregoing reasons, **IT IS RULED:**

1. The testimony to be served by Calpine and SDG&E on July 11, 2003 addressing Calpine's assertions in its motion and the viable alternatives to the Otay Mesa PPA is hereby cancelled.

2. The Commission's review of the results of SDG&E's RFP, and the issues pertinent to Calpine's motion, are hereby consolidated and are hereby bifurcated from the procurement issues set for hearing on July 21, 2003, and will be subject to a separate procedural schedule.

3. Calpine and other interested parties are encouraged to provide written comments on SDG&E's proposed schedule by July 14, 2003, with copies to the undersigned, ALJ Walwyn and the service list. However, parties that do not provide such comments in writing will still be allowed to address this proposed schedule orally at the Prehearing Conference that is currently scheduled to take place in this matter on July 16, 2003.

Dated July 8, 2003, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

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Michael R. Peevey  
Assigned Commissioner



**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached ASSIGNED COMMISSIONER'S RULING REGARDING FURTHER PROCEEDINGS ON SAN DIEGO GAS & ELECTRIC COMPANY'S GRID RELIABILITY CAPACITY REQUEST FOR PROPOSALS on all parties of record in this proceeding or their attorneys of record.

Dated July 8, 2003, at San Francisco, California.

/s/ Sally Cuaresma  
Sally Cuaresma

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.